IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION No. 3305 of 2007.

Ramesh Maruti Mene and Anr. ..Applicants.

Vs.

The State of Maharashtra ..Respondent.

Mr Kuldeep S. Patil, Advocate for the applicants.

Ms M. H.Mhatre, A.P.P for the State.

CORAM: V.C. DAGA,J.
DATED: 25.10.2007.

P.C.:-

1. Heard learned counsel for the applicants and learned APP for the State.

2. Perused application and the material available on record.

3. The applicants are seeking bail in C.R. No.175 of 2006 registered with Roha Police Station, District Raigad for the offence punishable under Sections 302, 201 read with Section 34 of the I.P.C.

4. According to the prosecution, on 11.12.2006 one Dnyaneshwar Arjun Malsure, Sarpanch of village Malsai lodged an accidental death report stating that he received information of a death body of unknown person found hanging on a mango tree

near a tank known as "Mahadeo chi Taki" situate on northern side of village Malsai. The said Dnyaneshwar Arjun Malsure visited spot and found that the said death body was of a foreign national hanging with the aid of a saree to a mango tree.

5. On the basis of the report lodged by said Dnyaneshwar,case of accidental death came to be registered. During investigation of said accidental death, police recovered one passport, some currency notes, railway ticket and hotel rent receipt. Deceased was identified as Stephen James Bennett, a British national. Some injuries were also found on the head of the deceased. F.I.R. was lodged against unknown persons for committing murder of the deceased by strangulating and assaulting on head of the deceased by some heavy object.

6. During the course of investigation, police recorded statements of several witnesses. From the statements of witnesses, Rajaram Sakhare, Padmakar Satam, Avinash Satam, Shantaram Redkar, Vanita Gawde, Ajay Wajar and Jayant Bhayani it was revealed that on 7.12.2006 at about 10:45 a.m. the deceased had boarded Mandvi Mumbai Express at Madgaon

on his journey to Bombay. It is also transpired that deceased was occupying seat in boggie bearing No.S-5. At about 6:30 to 7:00 p.m. said train halted at Roha and the deceased had alighted at Roha Station.

7. Police also recorded statement of Dnyaneshwar Gunaji Malsure. It is stated in the statement by him that on 7.12.2006 at about 4:00 p.m. he went on his bicycle to Roha. He saw one foreign national who was sitting on ground near village Malsai on road towards Roha railway station. It is alleged that the said witness approached the said foreign national and tried to converse with him. However, that person slapped on his face. It is further mentioned in his statement that on 8.12.2006 this witness came to know one foreign national had been murdered and his body was hanged on a mango tree near the water tank. It is alleged in the said statement that police had arrived in their village three days after the incident.

8. The learned counsel for the applicants relies on the statement of one Narayan Mohite recorded on 14.12.2006. According to him, the incident happened on 10.12.2006 and his further statement indicates that the death of

Stephen James Bennett, a British tourist, was due to hanging. As against this, the medical evidence and opinion filed on record suggests that death was due to head injury with ligature marks leading to strangulation. Learned counsel appearing for the applicant submits that the applicants would be entitled for bail on parity.

9. Having heard rival parties and having seen the order passed by this Court dated 3.9.2007 in Criminal Application No. 2348 of 2007, there is no direct evidence against applicants. They are in custody past more than 10 months. Investigation is over. In this view of the matter, I am inclined to grant bail to the applicant on the same terms and conditions on which bail was granted in favour of Chindya Ganpat Mohite.

a] the applicants-accused be released on bail in the sum of Rs. 25,000/- each with one or two sureties each in the like amount.

b] the applicants shall report Police Station,Roha District Alibag,once in a week i.e. on Friday between 3.00 to

5.00 p.m. till conclusion of the trial.

c] the applicants shall not pressurise prosecution witnesses and that they shall co-operate the Investigating agency.

d] The applicants shall co-operate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

e] Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

g] Breach of any of the above conditions may result in cancellation of this order.

10. The application is allowed in the above terms.

(V.C. DAGA,J.)